

Indexed as: Tucker (Re)

**THE DISCIPLINE COMMITTEE OF THE COLLEGE
OF PHYSICIANS AND SURGEONS OF ONTARIO**

IN THE MATTER OF a Hearing directed
by the Executive Committee of the College of Physicians
and Surgeons of Ontario, pursuant to Section 36(1)
of the **Health Professions Procedural Code**,
being Schedule 2 to the
Regulated Health Professions Act, 1991,
S.O. 1991, c.18, as amended

BETWEEN:

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

- and -

DR. ERIC CLINTON TUCKER

PANEL MEMBERS: DR. J. MCGILLEN (CHAIR)
DR. B. GIBLON
DR. A. KENSHOLE
P. BEECHAM
J. FREDERICK

HEARING DATE: October 18, 2000

DECISION RELEASED: October 18, 2000

DECISION AND REASONS FOR DECISION

This matter came before the Discipline Committee on October 18, 2000 at The College of Physicians and Surgeons of Ontario, at Toronto.

ALLEGATIONS

The allegations in the Amended Notice of Hearing (paragraph 1) alleged that Dr. Tucker has committed an act of professional misconduct as defined in clause 61(3)(a) of the *Health Disciplines Act*, 1990, c.H.4 in that he has been found guilty of an offence relevant to his suitability to practice. It was also alleged (paragraph 4) that in keeping with paragraph 29.33 of the Ontario Regulation 540/90, that he engaged in conduct or an act relevant to the practice of medicine that, having regard to all the circumstances, would be reasonably regarded by members as disgraceful, dishonourable or unprofessional.

The allegation outlined in paragraphs 2, 3, and 5 of the Amended Notice of Hearing was withdrawn by the College. The allegation of incompetence, as defined in section 61(4) of the *Health Disciplines Act*, R.S.O., 1990, c.H.4 was also withdrawn.

EVIDENCE

A Statement of Agreed Facts (“Statement”) was tendered and accepted as evidence.

FACTS

1. On December 19, 1991, Dr. Eric Clinton Tucker was convicted in Superior Court of California, County of Los Angeles, of prescribing a controlled substance without a valid medical reason. Certified copies of the following documents regarding Dr. Tucker’s criminal conviction were attached to the Statement. These included:
 - a) a felony complaint;
 - b) an amended felony complaint;
 - c) an amended felony complaint;
 - d) court minutes for sentencing and disposition.

2. On February 24, 1992 Dr. Tucker was convicted in the Superior Court of California, County of Los Angeles, of two counts of conspiracy to commit a criminal offence. Certified copies of Dr. Tucker's criminal conviction, including the court transcripts of the proceedings were attached to the Statement.
3. On August 7, 1991 Dr. Tucker signed a stipulation for voluntary surrender of his license for the Medical Board of California in consideration of the dismissal of a pending accusation. This stipulation for the voluntary surrender of the California medical license, the accusation, the statement of issues and the decision and order of the Board were also attached to the Statement.
4. As of the date of the hearing (October 18, 2000), the College had no information that there had been a problem with Dr. Tucker's prescribing practices since returning to practice in Ontario in 1992. Enquiries of the Bureau of Drug Surveillance (which is no longer in existence) were made in 1995 and the results were considered insignificant. The College was aware that Dr. Tucker had returned to Ontario as of 1993 and commenced its investigation at that time.
5. Dr. Tucker has undertaken to undergo a Peer Assessment of his practice. That peer assessment will consist of a review of 25-30 of his charts selected by an assessor on a random basis, and 15-20 patient charts in which narcotics were prescribed. The Quality Assurance Committee will review the report of the assessor and make recommendations of any further action, if necessary. The report of the Committee and of the assessor will be forwarded to the Executive Committee.

Admissions and Withdrawal

Upon the basis of the facts agreed to above, Dr. Tucker entered a plea of guilt to the allegation of professional misconduct in that he has been found guilty of an offence relative to his suitability to practise and that he engaged in conduct or an act relevant to the practise of medicine that,

having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (paragraphs 1 and 4 of the Amended Notice of Hearing). As set out above, the College therefore withdrew the other allegations in the Amended Notice of Hearing.

Consent Disposition

The parties agreed that the penalty should consist of:

- a) the attendance of Dr. Tucker before the Discipline Committee to be reprimanded, with the reprimand to be recorded on the register;
- b) the suspension of Dr. Tucker's Certificate of Registration for a period of six months, to commence on a date to be fixed by the Registrar within 60 days of this order becoming final;
- c) three months of Dr. Tucker's suspension referred to in the paragraph (ii) above would be suspended if Dr. Tucker sends a letter to the Director of the Bureau of Drug Surveillance, Health Canada, voluntarily giving up his prescribing privileges in respect to drugs on schedule "1" and "2", of the *Controlled Drugs and Substances Act*, with the exception of Codeine in an amount up to and including one-half grain, and provide proof to the Registrar that he has sent such letter.

The Committee also reviewed a number of reference letters provided by the solicitor for the physician. The Committee was not impressed by these letters, as they were letters of reference regarding the physician's ability as a clinical teacher and did not refer to the physician's character or current practice.

The Committee accepted the advice of the Independent Counsel regarding their responsibility in assessing the penalty for the member who had plead guilty. The Committee reviewed the evidence and accepted the fact that Dr. Tucker accepted full responsibility for his behaviour, and accepted the fact that the agreed upon penalty would result in an extremely low risk of further similar offences occurring in the future. The Committee therefore accepted the plea of guilt on the terms proposed in the joint submission.

PENALTY

The Committee therefore ordered the following:

1. that Dr. Tucker be reprimanded with the reprimand to be recorded on the register.
2. that Dr. Tucker's Certificate of Registration be suspended for a period of six months, to commence on a date to be affixed by the Registrar within 60 days of this Order becoming final.
3. that three months of the suspension (referred to in paragraph 2 above) be suspended if Dr. Tucker sends a letter to the Director of the Bureau of Drug Surveillance, Health Canada, voluntarily giving up his prescribing privileges in respect of the drugs on Schedule "1" to the *Controlled Drugs and Substances Act*, with the exception of Codeine in an amount up to and including one-half gram, and, that Dr. Tucker provide proof to the Registrar that such letter has been sent.

The Statement filed by Dr. Tucker's counsel included an undertaking on the part of the doctor in which Dr. Tucker undertook to undergo a Peer Assessment of his practice by an assessor selected by the College within 90 days of the hearing. The details of that Peer Assessment are set out in paragraph 5 the "Statement". The Discipline Committee accepts Dr. Tucker's undertaking and expects him to abide by it.

Dr. Tucker waived his right of appeal and the reprimand was administered by the Committee.